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IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

ARCADIA, OHIO, *et al.*,
Petitioners,

v.

OHIO POWER COMPANY, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF ON BEHALF OF RESPONDENTS LCP CHEMICALS, INC., MOBAY CORPORATION, OLIN CORPORATION, AND PPG INDUSTRIES, INC. IN SUPPORT OF THE PETITIONERS

T.D. KAUFFELT *
KAUFFELT & KAUFFELT
803 Kanawha Valley Building
P.O. Box 3082
Charleston, WV 25331
(304) 345-1272
* Counsel of Record

March 5, 1990

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DESCRIPTION OF INDUSTRIAL RESPONDENTS

This brief is presented on behalf of LCP Chemicals, Inc., Mobay Corporation, Olin Corporation, and PPG Industries, Inc., collectively referred to herein as "Industrial Respondents." Industrial Respondents were intervenors in the cases below before the Federal Energy Regulatory Commission and the Court of Appeals. Industrial Respondents are large West Virginia industrial

retail electric service customers of Wheeling Power Company ("Wheeling"), an entire requirements wholesale customer of Respondent Ohio Power Company ("Ohio Power"). Wheeling and Ohio Power are two of the eight operating public utility subsidiaries of American Electric Power Company ("AEP").

Industrial Respondents collectively purchase 680 million to 820 million kilowatthours per year at retail rates set for Wheeling by the Public Service Commission of West Virginia ("PSCWV"). Industrial Respondents' electricity purchases represent approximately 42 percent of Wheeling's West Virginia retail business. The PSCWV includes in Wheeling's rates a component, adjusted at least semi-annually, to provide for recovery of the cost of wholesale power and energy it purchases from Ohio Power. Thus, the cost of power purchased by Industrial Respondents includes the cost of Wheeling's purchase from Ohio Power, including the cost at issue in this proceeding.[1]

Of the $10.394 million Ohio Power refunded to Wheeling on May 6, 1988 covering the period from July 1982 through January 1988, approximately $4.309 million or 42 percent would be due to the Industrial Respondents, exclusive of additional refunds and interest accruing since that time.

STATEMENT

Industrial Respondents accept the Statement and support and adopt the Questions Presented and Reasons for Granting the Petition contained in the February 9, 1990 Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit filed by Petitioners, Arcadia, Ohio, et al.

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[1] Ohio Power's wholesale rates to Wheeling and to petitioners are not identical but are affected in the same manner by the issues raised in the petition for certiorari.

All applicable statutes, regulations, decisions, and authorities are contained in the Petition for Certiorari.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted,

T.D. KAUFFELT *
KAUFFELT & KAUFFELT
803 Kanawha Valley Building
P.O. Box 3082
Charleston, WV 25331
(304) 345-1272

March 5, 1990

* Counsel of Record